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PATENT
YOR919980308US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Hedrick, et al.
Serial Number : 09/129,737
Filing Date : August 5, 1998
Examiner : Shewareged, B.
Group Art Unit : 1774
For : CHEMICALLY AND OPTICALLY
STABLE CARBON FILMS

TO: The Honorable Commissioner of Patents
and Trademarks
Post Office Box 1450
Alexandria, VA 22313-1450

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MAR 14 2005

OFFICE OF PETITIONS

PETITION

This petition is filed pursuant to 37 CFR 137 to revive the above-identified application, which Applicants' attorney has been advised has been abandoned for failure to pay the issue fee.

Applicants attorney received a telephone call from the Intellectual Property Group of Assignee asking for a status check on the above-identified application as a part of their on-going file management system. Applicants' attorney checked his files and found that the most recent paper in the file is dated December 19, 2000, and the most recent activity in the prosecution of this case was Applicants' filing of three figures comprising the formal drawings in the case. There are no other later-received papers present in the file.

Applicants attorney then contacted Examiner Betelhem Shewareged, the Examiner responsible for this application on February 8, 2005 and she advised Applicants' attorney that the case had been abandoned for failure to pay the final fee.

Applicants' Attorney, the undersigned, has received no such notice of abandonment, but is promptly filing this petition the same day he was advised that the application was abandoned.

Thomas A. Beck, the undersigned declares as follows in support of this petition:

1. I am attorney of record in the above-identified application and have received other papers from the United States Patent and Trademark Office at the address listed below. I did have a prior address of record of 15 Alameda Place, Mount Vernon, NY 10552 in the United States Patent and Trademark Office until a change of address paper was filed on December 1, 2000.
2. I telephoned Examiner Betelhem Shewareged, the Examiner responsible for this application in the United States Patent and Trademark Office on February 8, 2005, and she advised me that the case had been abandoned for failure to pay the final fee.
3. Immediately after the receipt of the allegation of abandonment from the Examiner, I checked my file-wrapper and found a communication from the United States Patent and Trademark Office which contained a transmittal cover sheet which appears to be a "carbon copy" (not a photocopy), a "Notice of Allowability" and an Examiner's amendment.
4. The "Notice of Allowability" form (PTO-37) that is present in the file states in the first paragraph thereof:

All claims being allowable, PROSECUTION ON THE MERITS is closed in this application. If not included herewith, (or previously mailed), a NOTICE OF ALLOWANCE and ISSUE FEE DUE or other appropriate communication will be mailed in due course.

The Notice of Allowability also stated that new formal drawings must be submitted that comply with the requirements set forth by the Patent Draftsman.
5. A set of formal drawings was sent to the United States Patent and Trademark Office on December 22, 2000 and was received by the United States Patent and Trademark Office on December 28, 2000.
6. The filing of the formal drawings is the last activity that I have a record of in my files with respect to the instant application. I have a recollection of this case because the claims were finally rejected and I had to file a supplemental amendment which, to my surprise, resulted in the allowance of the claims.
7. I unequivocally declare that I never received the papers comprising PTOL Form 85B, the Issue Fee transmittal form.
8. I further unequivocally declare that I never received the papers comprising a Notice of Abandonment.
9. It was my state of mind at the time I received the Notice of Allowability based upon similar experience with Patent Office practice, that because there were formal drawings needed, and these formal drawings had to be approved by the Examiner as well as the Patent Draftsman, the specific papers relating to payment of the issue fee would be forth-coming after Applicants' formal drawings were received and approved. Thus it did not seem strange to me that the papers associated with the payment of the Issue Fee were not included with the Notice of Allowability.

10. It is my practice immediately upon receipt of a paper from the United States Patent and Trademark Office that requires a timely response, to enter the docket number and the specific action required in the appropriate monthly calendar sheet.

11. I have no knowledge when the Issue Fee Transmittal form PTOL85B was mailed (or would have been mailed out to me) so I do not have a date when that fee was or would have been due and payable. If it were mailed in December 2000, it would have been payable in the month of March 2001; and, if it were mailed in January 2001, it would have been payable in the month of April 2001.

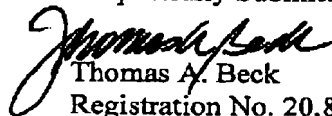
12. My docket number for the instant application is IBM-156. I enclose a copy of my calendar sheets for the months of March and April to corroborate that no such docket number is found on the enclosed sheets.

13. I also declare that I never received a Notice of Abandonment (if one was issued) from the United States Patent and Trademark Office with respect to the above-identified application.

14. The Commissioner is requested: to revive the above-identified application by withdrawing the holding of abandonment in the instant application (if issued); issue a Notice of Allowance and Fees Due form PTOL85B and charge any fees due in this matter to Deposit Account 50-0510.

FURTHER THE DECLARANT SAYETH NOT

Respectfully Submitted,



Thomas A. Beck

Registration No. 20,816

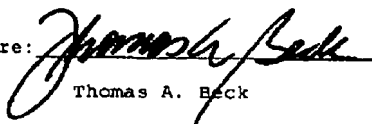
26 Rock Ledge Lane

New Milford, CT 06776

Telephone (860) 354-0892

I hereby certify that this paper is being telefaxed on the date indicated below to (703) 872-9306, addressed to Commissioner of Patents & Trademarks, Post Office Box 1450, Alexandria, VA 22313-1450

Signature:



Name:

Thomas A. Beck

Date: February 8, 2005

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Day	Thursday	Friday	Saturday
	1 060/345	2 061/304	3
066/299	8 067/298	9 07/093, 019 TBM 202 DUE 1 MONTH EXTENSION	10 068/297
073/292	15 074/291 DEPART FOR London	16 075/280	17 St. Paul
080/285	22 081/284 08/115, 422 TBM 198 DUE FINAL - RETURN FROM LONDON	23 082/283	24
087/278	29 088/277	30 089/276	31
56 DUE			
08/115, 406 08			

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MAR 12 2001

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MARCH 2001

To Do:

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Thursday	Friday	Saturday
080/305	081/304	082/303
	2	3
067/298	068/297	069/296
	9 09/093,019 TBM 202 DUE 1 MONTH EXTENSION	10
074/291	075/290	076/289
DEPART FOR LONDON	16	17 St. Patrick's Day (Ireland, US)
081/284	082/283	083/282
02/115, 422 TBM 198 DUE FINAL - TURN FROM LONDON	23	24
088/277	089/276	090/275
	30	31

4	5	6 09/112, 573 IBM 130 DUE FEEGER IBM 183 DUE ANGELO PAULOS 09/208, 528
11	12	13
18 IBM/OGG DUE FINAL	19 Canberra Day (Australia)	20 IBM 3M French case due for filing
25 Mothering Sunday (United Kingdom)	26 08/632, 583 IBM 127 DUE	27

January
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7 8 9 10 11 12 13
14 15 16 17 18 19 20
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February
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June
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March							July							August							September							October						
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Sunday	Monday	Tuesday
1 Daylight Saving Time begins (US) <small>09/7274</small>	2	3
8 Passover Palm Sunday <i>IBM 207</i> <i>TWB</i> <small>098/287</small>	9 <small>098/286</small>	10 <i>09/664, 729</i> <i>IBM 158 DUE</i> <i>CHUEGARI</i> <i>FIRST OFFICE ACTIO</i>
15 Easter Sunday <i>08/739, 343</i> <i>IBM 184 DUE</i> <i>ALLOWED CLAIMS-REVISION</i> <i>REQUIRED</i> <small>105/280</small>	16 Easter Monday (A, C, I, NZ, UK) <small>106/259</small>	17
22 <small>112/253</small>	23 <small>113/252</small>	24
29 <small>119/246</small>	30 <i>IBM 215 DUE</i> <i>08/513, 481</i> <i>1st of</i> <i>9:00 Dental appt</i> <small>120/245</small>	

January	February	March	May
S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S S M
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14 15 16 17 18 19 20	11 12 13 14 15 16 17	11 12 13 14 15 16 17	13 14 15 16 17 18 19 10 11
21 22 23 24 25 26 27	18 19 20 21 22 23 24	18 19 20 21 22 23 24	20 21 22 23 24 25 26 17 18
28 29 30 31	25 26 27 28	25 26 27 28 29 30 31	27 28 29 30 31 24 25

APRIL 2001

PAGE 9/12 * RCVD AT 2/9/2005 4:49:08 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/3 * DNIS:8729306 * CSID:860 210 0700 * DURATION (mm-ss):06-34

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